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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/168,644	10/08/1998	MARK D. CONOVER	2134	2742

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EXAMINER

LEE, RICHARD J

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/168,644	Applicant(s) CONOVER, MARK D.	
	Examiner Richard Lee	Art Unit 2613	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

Art Unit: 2613

1. In view of the Decision on Appeal dated June 7, 2005, and upon further consideration, the following grounds of rejections are deemed appropriate. The applicant is informed that the Gordon reference of record (6,324,217) is an applicable piece of prior art that cannot be antedated by the 37 CFR 1.131 affidavit submitted on July 19, 2002 since a Rule 1.131 affidavit cannot overcome a section 102(e) rejection to the same claimed invention. It is suggested for the applicant to provide a submission under Rule 41.202 in order to provisionally remove the section 102(e) rejection for purposes of interference. The applicant is reminded that this is a one-time opportunity to provide a sufficient showing of evidence.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Gordon of record (6,324,217).

Gordon discloses a method and apparatus for producing an information stream having still images as shown in Figures 1 and 3, and the same method for producing a compressed video bitstream that includes compressed video data for a plurality of frames that specifies a single still image as claimed in claim 1, comprising the same fetching that data for the still image (see input to 110 of Figure 1); encoding (i.e., 110 of Figure 1) the data for the single still image data into data for an I frame; storing (i.e., 111 or 121 of Figure 1) the encoded I frame data; assembling the compressed video bitstream by appropriately combining data for at least a single copy of the

Art Unit: 2613

stored I frame (i.e., from 120 of Figure 1, see column 3, lines 36-47, column 3, line 61 to column 5), at least one null frame (i.e., from 120 of Figure 1, see column 3, lines 36-47, column 3, line 61 to column 5), and various headers required for decodability of the compressed video bitstream (see column 4, lines 5-43); and whereby decoding of the compressed video bitstream produces frames of video which produce images that do not appear to pulse visually (see column 3, lines 48-54, column 7, lines 26-58).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon as applied to claim 1 in the above paragraph (3), and further in view of Davis et al of record (5,838,678).

Gordon discloses substantially the same method for producing a compressed video bitstream as above, further wherein the assembled compressed video bitstream is decodable in accordance with the MPEG-1 and MPEG-2 standards (see column 3).

Gordon does not particularly disclose though the followings:

(a) wherein null frames assembled into the compressed video bitstream also include bitstream stuffing whereby the compressed video bitstream is transmittable at a pre-established bitrate as claimed in claim 5;

(b) the various headers assembled into the compressed video bitstream include a sequence header beginning the compressed video bitstream, at a beginning of group of pictures, a

Art Unit: 2613

group start code, for each encoded frame, a picture start code, and a sequence end code ending the compressed video bitstream as claimed in claims 2 and 6; and

(c) the various headers assembled into the compressed video bitstream include a sequence header beginning the compressed video bitstream; for each encoded frame a picture header, and a picture coding extension; and a sequence end code ending the compressed video bitstream as claimed in claims 3 and 7.

Regarding (a) to (c), Davis et al discloses a method and device for preprocessing streams of encoded data to facilitate decoding streams back to back as shown in Figures 2, 3A, 3B, 5, and 6, and teaches the conventional assembling of the compressed video bitstream by appropriately combining data for headers such as sequence header, group start code, picture start code, sequence end code, picture header, and picture coding extension (see column 3, line 41 to column 4, line 16), as well as bitstream stuffings whereby the compressed video bitstream may be transmitted at a pre-established bitrate (see "stuffing bytes" in Figure 2). Therefore, it would have been obvious to one of ordinary skill in the art, having the Gordon and Davis et al references in front of him/her, would have had no difficulty in providing the required header data for the MPEG encoding/decoding as well as including the bitstream stuffings in the compressed video bitstream as shown in Davis et al for the compressed video data within encoder and decoder of Gordon for the same well known video bit processing and standard compliance purposes as claimed.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon as applied to claim 1 in the above paragraph (3), and further in view of Florencio of record (6,310,919).

Gordon discloses substantially the same method for producing a compressed video bitstream as above, but does not particularly disclose wherein parameters used in encoding the data for the still image produce an amount of data for the I frame that approaches, but remains less than, storage capacity of a buffer memory included in a decoder that stores the compressed video bitstream as claimed in claim 4. The particular storage of compressed video bitstreams within a decoder is however old and well recognized in the art, as exemplified by Florencio (see 111 of Figure 1 and column 5, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art, having the Gordon and Florencio references in front of him/her and the general knowledge of storage buffers within video image decoders, would have had no difficulty in providing the buffer memory within the decoder of Florencio for storage of and decoding of the compressed video bitstream of Gordon for the same well known buffering of data purposes as claimed.

Art Unit: 2613

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (571) 272-7333. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.

Richard Lee/rl

9/28/05

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